

## Stephanie Cegielski

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**From:** Bill Hobbs  
**Sent:** Monday, October 05, 2009 6:20 PM  
**To:** Stephanie Cegielski  
**Cc:** Wayne Munster; Judd Choate  
**Subject:** FW: Rule 45 proposed changes  
**Attachments:** Proposed Changes to Rule 45 for Public Comment.pdf

FYI,  
-Bill

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**From:** Robert Balink [mailto:RobertBalink@elpasoco.com]  
**Sent:** Monday, October 05, 2009 1:27 PM  
**To:** berniebuscher@sos.state.co.us  
**Cc:** Bill Hobbs  
**Subject:** FW: Rule 45 proposed changes

Dear Secretary Buescher,

**Subject:** Rule 45 proposed changes

REGARDING: The Secretary of State's Friday meeting on Rule 45 to discuss the proposed changes to the certification process. No public comments were accepted.

However, we have attached the draft changes for you, and will comment on one change that we found particularly "troubling:"

**Rule 45.6.2.3.6** – previously required vendors to submit blank ballots that would be hand marked. The SOS is proposing this be changed to allow vendors to pre-mark ballots for certification testing. The justification provided on this section was that it introduced too much chance for human error if staff had to mark and count ballots to a given pattern.

The reason for our concern at the county level is simple. We at the county want to rely on Federal and State testing as an assurance to the citizens that ballot counting machines are thoroughly tested. We don't have the time or resources to test them to the level that is required for complete assurance that the systems will count accurately to the prescribed standards (1 error in 10 million votes). The federal government performs a "simulated" ballot test (they don't actually run ballots through the machine). Now the state is proposing to use machine marked ballots exclusively for testing. If the state does not test HUMAN MARKED ballots, the only time the machines will be tested against hand markings is when people cast live ballots on them.

Additionally, the testing performed in 2007 by the Secretary of State's office revealed an error with "stray marks" on ballots with certain systems. This deficiency was ONLY discovered because human marked ballots were used in the testing. Had the vendor been allowed to submit machine

marked ballots, the discrepancy wouldn't have occurred until discovered in an election. As was the case in Nov. 2008 but having the knowledge of the error, the state was able to better handle the situation.

If you have any questions or have a need for follow up, please contact us as we feel it warrants some further consideration.

(You can contact Liz Olson (our Election Department Manager), John Gardner (our Information Systems Manager), or me.)

Best regards,

Bob Balink

El Paso County

<<Proposed Changes to Rule 45 for Public Comment.pdf>>